

ORIGINAL



0000023259

**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
COMMISSIONER  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

Arizona Corporation Commission

**DOCKETED**

DEC 28 2001

DOCKETED BY	
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IN THE MATTER OF U S WEST  
COMMUNICATIONS, INC.'S COMPLIANCE  
WITH § 271 OF THE  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

**QWEST CORPORATION'S OPPOSITION TO MOTION OF COMMISSION  
STAFF TO POSTPONE FINAL OSS WORKSHOP BY ONE WEEK AND  
MOTION TO COMPEL STAFF TO RELEASE REPORTS AND  
REQUEST FOR EXPEDITED HEARING**

Qwest Corporation (Qwest) hereby submits its Opposition to Motion of Commission Staff to Postpone Final OSS Workshop by One Week (the Motion). In addition, Qwest requests that the Arizona Corporation Commission (the Commission) compel Staff to release all of its draft and recommended reports on the remaining checklist items.

**Introduction**

Staff has filed a motion to delay the remaining dates -- including the Final OSS Report Workshop and all other remaining dates -- set forth in the November 2, 2001 Procedural Order regarding the OSS test (Procedural Order). The parties have had notice of the dates Staff seeks to delay for nearly two months. In fact, the parties all agreed to those dates. The parties to this proceeding, including Qwest, have always understood that it may be necessary to designate back-up representatives to be available, depending on

the schedule. Consistent with this understanding, no party has requested this delay to the schedule; instead, Staff has requested the delay.

No further delay in the schedule is justified. Qwest asks that Staff's Motion be denied. Qwest also asks that Staff be compelled to issue its initial draft report on General Terms & Conditions and Public Interest/Track A and its recommended reports for checklist item 4, 272, and Line Splitting/NIDs so that dates can be set for final hearing and presentation to the ACC without further delay.

Qwest requests an expedited hearing on its opposition and motion.

### **Argument**

#### **A. The Final OSS Report Workshop should not be delayed.**

Staff requests a week delay in the dates set by the November 2, 2001 Procedural Order (Procedural Order) for two reasons: (1) to accommodate a workshop that was recently scheduled by the Colorado Public Utilities Commission, and (2) to allow the parties more time. Neither reason justifies additional delay.

Staff advised Qwest that it was considering filing a motion to delay the Final OSS Report Workshop on Thursday, December 20, 2001. Qwest proposed several alternatives that would avoid delay. Staff advised Qwest that its consultant, Doherty Company, Inc. (DCI), believed that no delays in the remainder of the schedule would be necessary even if the Final OSS Report Workshop were delayed one week. Qwest advised Staff that it agreed with DCI that the remainder of the schedule should not be delayed. The next day, without any further explanation, Staff advised Qwest that it would file a motion requesting a week delay in the Final OSS Report Workshop and all of the remaining dates in the Procedural Order. Staff forwarded a notice that it filed its Motion to Cap

Gemini Ernst & Young for distribution to the TAG after 5:00 p.m. MST on Friday, December 21, 2001.

In its Motion, Staff first points to a conflict with the recently scheduled Colorado workshop to support its request for delay. The Final OSS Report Workshop in this proceeding was set for January 15-18, 2001 nearly two months ago. As Staff notes in its Motion, all of the parties agreed to those dates set forth in the Procedural Order. None of the parties to this proceeding who also participate in the Colorado proceedings has filed a motion seeking to delay the Final OSS Report Workshop. Indeed, AT&T indicated that it can attend the currently scheduled Final OSS Report Workshop. WorldCom indicated that it would check on the availability of its representatives to attend the currently scheduled workshop. Thus, the subsequent Colorado setting provides no basis for delaying a workshop that has been set for nearly two months.

Similarly, no party has filed a motion seeking additional time to prepare for the Final OSS Report Workshop. Again, the parties have not only had notice of the date on which the Final OSS Report Workshop will be held, but they all agreed to the date for that workshop and the subsequent schedule set forth in the Procedural Order. Again, Staff's proffered reason provides no basis for delaying the workshop or any of the subsequent dates set in the Procedural Order.

Accordingly, Staff's Motion should be denied. However, even if the Hearing Officer decides to grant a one week postponement in the date for the Final OSS Test Workshop, Staff has provided no reason for extending the remaining dates in the Procedural Order. As noted above, even Staff's consultant, DCI, agrees that no additional delay would be warranted if the workshop is postponed. Staff failed to provide any

explanation for making such a broad request. Thus, there is absolutely no basis for extending the remaining dates, even if the workshop is delayed for one week.

**B. A Schedule for Final Findings on Checklist Items should be Set Now to Avoid Any Further Delay.**

The Motion to postpone the Final OSS Report Workshop is only the most recent delay in this proceeding. Staff has delayed several months in issuing its draft reports on the remaining checklist items and in issuing its recommended reports to the Hearing Division so that the Hearing Division can issue its recommended orders on those items. The workshops concluded many months ago. The remaining proceedings on these issues hinge on Staff's issuance of its reports -- first to the parties for comment, then to the Hearing Division. Now that the OSS test has concluded, it is imperative that Staff completes its long-overdue tasks on the checklist items to avoid unnecessarily delaying Qwest's application to the FCC.

The December 8, 1999 Procedural Order set forth the process for addressing the checklist items. Workshops were held regarding the checklist items and the parties were allowed to submit post-workshop briefs. Staff was obligated to issue its draft report, consisting of proposed findings of fact and conclusions of law on each checklist item, within twenty days after the parties submitted their briefs. The parties were then allowed ten days to file any proposed additional or revised findings of fact or conclusions of law. Finally, Staff was required to file its recommended report within ten days after the parties' proposed additional or revised findings or conclusions. Staff has failed to meet its obligations.

The General Terms & Conditions report is illustrative. The General Terms & Conditions workshop concluded on July 25, 2001. Briefing was completed on September

19, 2001, resulting in an October 9, 2001 due date for Staff's draft report. Staff failed to meet that deadline. Qwest has conferred with Staff regarding the issuance of Staff's draft report many times over the past two months. On no less than 17 separate occasions, Staff committed to release the General Terms & Conditions report on a specified date -- and Staff failed to meet every one of those 17 commitments. During this time, Staff never advised Qwest in advance that it would not meet its commitments. Instead, it simply let the commitments slide until it made the next hollow commitment to Qwest. Staff has yet to issue its draft General Terms & Conditions report.

Staff has similarly failed to issue its draft report regarding Public Interest/Track A, which was due on October 12, 2001, despite the fact that Staff has advised that there are no impasse issues for this topic. Thus, once Staff's report is issued, it does not require action by the Hearing Division, but can immediately be considered by the Commission.

Staff has also failed to meet its obligation to issue its recommended report regarding checklist item 4 (which was due on October 24, 2001), Line Splitting/NIDs (which was due on December 17, 2001), and 272 (which was due December 20, 2001). On December 24, 2001, Staff finally issued recommended reports regarding checklist items 2 and 11 and the Performance Assurance Plan. Those reports were approximately three months past due. Staff's failure to meet its commitments has delayed the Hearing Division's consideration of these reports.

In order to avoid any further delay in finalizing the outstanding checklist items, Qwest requests that the Hearing Officer order Staff and the parties to adhere to the following schedule:

Staff must issue draft reports on General  
Terms & Conditions and Public Interest/Track A,

and recommended reports on 272, Checklist Item 4, and Line Splitting/NIDs	01/04/02
Parties' briefs on General Terms & Conditions due	01/14/02
Hearing Division's recommended orders on Checklist Items 2, 4, 11, 272, Line Splitting/NIDs, and Performance Assurance Plan due	01/31/02
Hearing Division's recommended order on General Terms & Conditions due	02/13/02

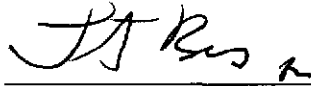
This schedule will permit the Commission to review all of the final results in an Open Meeting shortly after February 13, 2002.

### **Conclusion**

The issues Staff cites to delay the Final OSS Report Workshop are not new or unanticipated. Rather, these issues were known at the time the current schedule, including the January 15-18 date for the Final OSS Report Workshop and all subsequent dates, was set. These issues, therefore, do not justify any additional delay. Further, to avoid any additional delay in this proceeding, Qwest requests that the Hearing Officer enter an order incorporating Qwest's proposed schedule for finalizing the remaining checklist items.

Qwest requests an expedited hearing on this Opposition To Motion Of Commission Staff To Postpone Final OSS Workshop By One Week and Motion To Compel Staff To Release Reports.

Respectfully submitted this 28<sup>th</sup> day of December, 2001.



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